

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Criminal Action No. 06-23-KAJ
)	
NICOLE PFUND,)	
Defendant.)	

**JOINT MOTION TO AMEND SENTENCING HEARING RECORD TO INCLUDE
DOCUMENTS RELATING TO DEFENDANT'S
CRIMINAL HISTORY/RELEVANT CONDUCT**

COMES NOW the United States of America, by and through its attorneys, Colm F. Connolly, United States Attorney for the District of Delaware, and Shannon T. Hanson, Assistant United States Attorney for the District of Delaware, and James J. Haley, counsel for defendant Nicole Pfund, and hereby requests that the Court reopen and amend the record of the sentencing hearing in the above-captioned case, held by the Court on November 13, 2006, to include documents referred to at that hearing (specifically proposed Joint Hearing Exhibits 1-6, appended hereto), and for their reasons state as follows:

(1) On November 13, 2006, defendant Nicole Pfund was sentenced by the Court to a term of imprisonment of 100 months, five (5) years supervised release, restitution totaling \$36,149.06, and a special assessment of \$100. *See* 11/13/2006 Sentencing Transcript, Docket Item ("D.I.") 31, at 12-15.

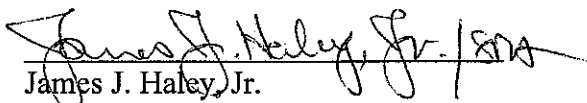
(2) At the sentencing hearing, defense counsel raised an issue with respect to the computation of loss and relevant conduct under the U.S. Sentencing Guidelines, specifically with respect to certain prior criminal activity of the defendant in New Jersey. *See* D.I. 31 at 3-4. In short, defense counsel was advocating for a 10 level increase under U.S.S.G. Sec. 2B1.1(b)(1)(F), rather than a 12 level increase for losses over \$200,000 pursuant to U.S.S.G. Sec. 2B1.1(b)(1)(G). In

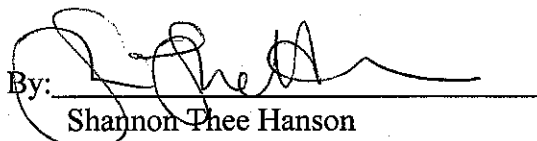
responding to defense counsel, the Court referenced documentation from the New Jersey courts provided by the Probation Officer to the Court and to counsel immediately prior to the sentencing hearing. D.I. 31 at 4. Thereafter, government counsel indicated that she had reviewed the materials provided by the Probation Officer and noted that these materials related to the conduct at issue in paragraphs 66, 68, 75, 76, 78 and 80 of the defendant's Presentence Investigation Report. D.I. 31 at 5-6. Government counsel argued that the documentation provided by the Probation Officer demonstrated that the counts of conviction in each of the New Jersey bad check cases listed in those paragraphs were not the same as the bad check counts included as relevant conduct in the federal prosecution. *Id.* The Court accepted the government's argument and the Probation Officer's calculations and found that the defendant's total offense level was 24, which included a 12 level increase for losses over \$200,000 pursuant to U.S.S.G. Sec. 2B1.1(b)(1)(G). *Id.* at 6.

(3) Defendant Pfund filed a timely appeal. D.I. 26, 27, and 28. To insure that the record on appeal is clear and complete, the parties respectfully request that the documentation provided by the Probation Officer, reviewed by parties and the Court, and referred to repeatedly during the Sentencing Hearing, be made part of the record of that Sentencing Hearing. The parties have attached hereto, as proposed Joint Hearing Exhibits 1-6, those materials reviewed at sentencing which the parties respectfully request be made a part of the record. Defense counsel has reviewed the contents of this joint motion and proposed order, approved them, and authorized government counsel to sign this Motion on his behalf. A proposed Order is attached.

Respectfully submitted,

COLM F. CONNOLLY
United States Attorney


James J. Haley, Jr.

By: 
Shannon Thee Hanson
Assistant United States Attorney

Dated: December 12, 2006

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Criminal Action No. 06-23-KAJ
)	
NICOLE PFUND,)	
Defendant.)	

**JOINT MOTION TO AMEND SENTENCING HEARING RECORD TO INCLUDE
DOCUMENTS RELATING TO DEFENDANT'S
CRIMINAL HISTORY/RELEVANT CONDUCT**

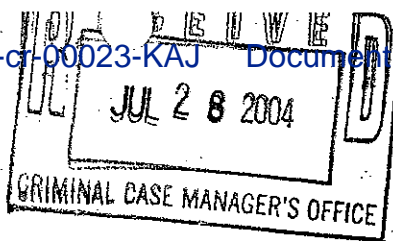
Having reviewed the parties' Joint Motion to Amend Sentencing Hearing Record to Include Documents Relating to the Defendant's Criminal History/Relevant Conduct, it is

HEREBY ORDERED as follows:

(1) The record of the November 13, 2006 sentencing hearing in the above-captioned case **IS REOPENED** and the record **IS AMENDED** to include the documents identified in and appended to the parties' joint motion as Joint Hearing Exhibits 1-6.

The Honorable Kent A. Jordan
United States District Judge

Dated: December ____, 2006.



**SUPERIOR COURT OF NEW JERSEY
COUNTY OF GLOUCESTER
LAW DIVISION - CRIMINAL**

THE STATE OF NEW JERSEY :

JULY TERM, 2004

V. :

(A) INDICTMENT NO. 04-07-00567-1

NICOLE PFUND

Defendants

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 28, 2003, in the Township of Washington, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Drissels having a value in excess of \$200.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000259-0818 (theft by decep)

SECOND COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 28, 2003, in the Township of Washington, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter a true to Drissels, check number 3670 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Drissels in the amount of \$313.58, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000259-0818 (uttering)

THIRD COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 28, 2003, in the Township of Washington, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Bloomers having a value in excess of \$200.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000261-0818 (theft by decep)

**JT. HRG.
EXH. 1**

FOURTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 28, 2003, in the Township of Washington, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Bloomers, check number 3671 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Bloomers in the amount of \$361.20, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000261-0818 (uttering)

FIFTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 2, 2003, in the Township of Washington, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Lamp and Shade Works having a value in excess of \$200.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000260-0818 (theft by decep)

SIXTH COUNT

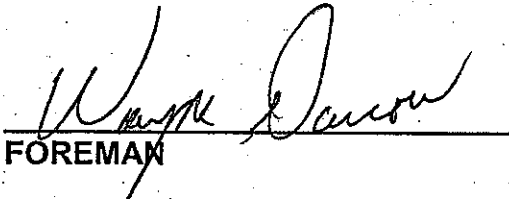
The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 2, 2003, in the Township of Washington, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Lamp and Shade Works, check number 3684 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Lamp and Shade Works in the amount of \$482.20, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000261-0818 (uttering)

SEVENTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 3, 2003, in the Township of Washington, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Lamp and Shade Works having a value in excess of \$500.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000299-0818 (theft by decep)

EIGHTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 3, 2003, in the Township of Washington, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Lamp and Shade Works, check number 3689 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Lamp and Shade Works in the amount of \$683.70, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000299-0818 (uttering)



FOREMAN

CASE: 04000759



COUNTY PROSECUTOR

STATE OF NEW JERSEY 04000759-001 A

NEW JERSEY SUPERIOR COURT PAGE 01 OF 01
GLOUCESTER COUNTY LAW DIVISION-CRIMINAL

NICOLE PFUND

XX JUDGMENT OF CONVICTION
CHANGE OF JUDGMENT
XX ORDER FOR COMMITMENT
INDICTMENT/ACCUSATION DISMISSED
JUDGMENT OF ACQUITTAL

DATE OF BIRTH 07/18/1975 S.B.I.# 981511B
DATE OF ARREST DATE IND/ACCUSATION FILED 07/28/2004
DATE OF THE ORIGINAL PLEA WAS
ORIGINAL PLEA 01/31/2005 NOT GUILTY XX GUILTY

ADJUDICATION BY XX GUILTY PLEA DATE 01/31/2005 NON-JURY TRIAL DATE
JURY TRIAL DATE DISM/ACQUITTAL DATE

ORIGINAL CHARGES ON IND 04-07-00567-I

COUNT(S)	DESCRIPTION	DEGREE	STATUTE
001, 003	THEFT BY DECEPTION	4	2C:20-4
002, 004	FORGERY-UTTER	4	2C:21-1A(3)
005, 007	THEFT BY DECEPTION	3	2C:20-4
006, 008	FORGERY-UTTER	4	2C:21-1A(3)

FINAL CHARGES

COUNT(S)	DESCRIPTION	DEGREE	STATUTE
007	THEFT BY DECEPTION	3	2C:20-4

IT IS THEREFORE ON MARCH 21 2005 ORDERED AND ADJUDGED THAT THE DEFENDANT IS SENTENCED AS FOLLOWS:

COUNT 007, THEFT BY DECEPTION, 3RD DEGREE: THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 4 YEARS, C/C TO A04-09-00660-I, A04-08-00600-I & TO THE SENTENCE SHE IS CURRENTLY SERVING OUT OF CAMDEN AND/OR BURLINGTON COUNTY. CREDIT FOR TIME SERVED OF 16 DAYS (4/29/04 TO 5/5/04 & 5/9/04 TO 5/17/04). GAP TIME CREDITS OF 76 DAYS (5/6/04 TO 5/8/04 & 1/7/05 TO 3/20/05). FINES & PENALTIES OF \$50 VCCB & \$75 SSNA. RESTITUTION AS INDICATED UNDER A04-09-00660-I. MONETARY PAYMENTS, INCLUDING RESTITUTION, & DNA TESTING & COSTS APPLY & ARE C/C TO A04-09-00660-I. ** DISMISSALS: COUNTS 1 THRU 6 & 8 OF A04-07-00567-I.

() IT IS ORDERED THAT THE SHERIFF DELIVER THE DEFEND. TO THE APPROPRIATE CORRECTIONAL AUTHORITY.

(X) DEFENDANT RECEIVES CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 16 DATES SEE ABOVE

(X) DEFENDANT RECEIVES GAP TIME CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 76 DATES SEE ABOVE

TOT. CUSTODIAL TERM 04Y 00M 00D INSTITUTION:

CARE COMMISS/CORR

TOT. PROBATION:00Y 00M

STATE OF NEW JERSEY V. NICOLE PFUND

SBI# 981511B IND/ACC# 04-07-00567-I

TOTAL FINE \$.00 1) A MANDATORY DEDR PENALTY IS IMPOSED
 TOTAL RESTITUTION \$.00 0 1ST DEGREE @ \$3000 0 4TH DEGREE @ \$750.
 0 2ND DEGREE @ \$2000 DISORDERLY PERSONS @ \$500
 0 3RD DEGREE @ \$1000
 IF THE OFFENSE OCCURRED ON/AFTER 12/23/91 AN ASSESSMENT OF \$50 IS IMPOSED ON EACH CONVICTED COUNT UNLESS THE BOX BELOW INDICATES A HIGHER ASSESSMENT (\$30 IF OFFENSE OCCURRED ON/AFTER 1/9/86 UNLESS HIGHER ASSESSMENT NOTED) (\$25 IF OFFENSE BEFORE 1/1/86)
 (X) ASSESSMENT IMPOSED ON COUNT(S) 1 IS \$50.00 EACH.
 TOTAL VCCB ASSESS \$50.00 SSNA \$75.00
 () INSTALLMENT PAYMENTS ARE OF \$ PER BEGINNING

2) A FORENSIC LABORATORY FEE OF \$50 PER OFFENSE ORDERED OFFENSES @ \$50.
 TOTAL LAB FEE \$.00
 3) DRUGS INVOLVED:
 4) A MANDATORY DRIVER'S LICENSE SUSPENSION OF MO. IS ORDERED THE SUSPENSION BEGINS END: DRIVERS LICENSE #
 DEFENDANT ADDRESS: EYE COLOR SEX DATE OF BIRTH
 () DEFENDANT HOLDS AN OUT-OF-STATE DRIVERS LICENSE FROM JURISDICTION DRIVERS LICENSE #
 () YOUR NON-RESIDENT DRIVING PRIVILEGE IS REVOKED FOR MONTHS

IF OFFENSE OCCURRED ON/AFTER 02/01/93 & SENTENCE IS PROBATION OR STATE CORRECTIONS, A TRANSACTION FEE UP TO \$1.00 IS ORDERED EACH OCCASION A PAYMENT OR INSTALLMENT IS MADE.
 IF OFFENSE OCCURRED ON/AFTER 08/02/93 A \$75 SAFE NEIGHBORHOOD SERVICES FUND ASSESSMENT IS ORDERED ON EACH CONVICTION
 IF OFFENSE OCCURRED ON/AFTER 01/05/94 & SENTENCE IS PROBATION A FEE OF UP TO \$25 PER MO. FOR THE PROB. TERM IS ORDERED AMOUNT PER MONTH n/a

NAME OF FORM PREPARER TELEPHONE# NAME (ATTORNEY)
 S. ARRISON 609 853 3534 NEIL A HARTMAN ESQ.

REPORTER: REASONS

SEE ATTACHED "REASONS FOR SENTENCE"

WALTER L MARSHALL JR, J.S.C.

MARCH 21 2005

JUDGE (NAME)

JUDGE (SIGNATURE)

DATE

STATE v. NICOLE PFUND

SENTENCE DATE: 3/21/05

INDICTMENT NOS. A04-09-00660-I, A04-08-00600-I, A04-07-00567-I,
A04-06-00474-I, 04-12-00439-Z AND A04-08-00601-I

Pursuant to a plea negotiated with the State, the defendant pled guilty on January 31, 2005 to Count 5 of Indictment No. A04-09-00660-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-08-00600-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 7 of Indictment No. A04-07-00567-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-06-00474-I, attempted theft by deception, in violation of NJSA 2C:5-1, a 3rd degree offense, to Count 1 of Indictment No. 04-12-00439-Z, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, and to Count 1 of Indictment No. A04-08-00601-I, theft by deception, in violation of NJSA 2C:20-4, a 4th degree offense. The Court has reviewed the pre-sentence report and finds the following factors:

**REASONS FOR SENTENCE,
WHICH APPLY TO ALL SENTENCES**

AGGRAVATING FACTOR(S):

3. The risk that the defendant will commit another offense.

The defendant's record is voluminous. This factor applies and is given substantial weight.

6. The extent of the defendant's prior criminal record and the seriousness of the offenses of which she has been convicted.

This factor applies and is given substantial weight.

9. The need for deterring the defendant and others from violating the law.

This factor applies in every case of this type. This especially applies due to the fact that the defendant is a repetitive offender. This factor is given substantial weight.

MITIGATING FACTOR(S):

None.

This was a negotiated plea agreement between the prosecutor and the defendant. There is, therefore, a presumption of reasonableness. It appears appropriate under all the facts and circumstances and, in the interests of justice the Court will impose the recommended sentence.

The aggravating factors substantially outweigh the mitigating factor(s).

There is no presumption for or against incarceration for these third degree crime.

COMPLAINT NO : W 2004 530628 COURT CODE : 1709 COMPLAINT STATUS: DSUS
TOTAL CHARGES : 002 BAIL STATUS : BAIS WARR STATUS: SEALED IND:
CO-DEF COUNT: 000 RELATED COMP : N POLICE CASE NO: A14004544
ISSUED DATE : 03 02 2004 DORA DATE: 00 00 0000 AGENCY/OFFR/UNIT: 2200 5864 A140
OFFENSE DATE: 10 08 2003 ENTERED DATE: 03 02 2004 OPERATOR ID : JUMLB5P

DEF NAME : NICOLE PFUND DOB: 07 18 1976
DEF ADDRESS: 24 CANDELSTICK ROAD

CITY : LAUREL SPRINGS STATE: NJ ZIP CODE: 08021
PHONE NO : 000-000-0000 DLN: P30545910057764 DLN STATE: NJ

COMPL NAME :

HEARING DATE : 05 11 2004 TIME: 09:00 A ROOM: 0001 TYPE: FIAP
ADJOURNED DATE: 05 11 2004 COMPLAINT PLEA CODE: 9
REASON : COURT ADJOURNMENT
TRANSFERRED TO: 0089 DATE: 03 02 2004 TRANSFERRED FROM: 0089 DATE: 05 11 2004
COMMENTS :

PF1-M/P COMPLNT PF2-NARRATIVE PF3-OFFENSE/DISP

COMPLAINT NO: W 2004 530628 COURT CODE: 1709 COMPLAINT STATUS: DSUS
DEFENDANT : NICOLE PFUND RELATED COMP : N
PAGE: 0001

NARRATIVE

WITHIN THE JURISDICTION OF THIS COURT, COMMIT THEFT BY DECEPTION BY
ISSUING A BANK CHECK IN AMT OF \$334.74 TO PURCHASE A TROY-BILT LAWNMOWER
FROM ROORKS, BY USING A WACHOVIA BANK ACCOUNT CHECK IN THE NAME OF
TABITHA L RASTELLI, KNOWING THIS IS NOT HER TRUE IDENTITY, IN VIOLATION
NJS 2C:20-4A

WITH THE JURISDICTION OF THIS COURT, UTTER A WRITING WHICH SHE KNEW TO BE
FORGED SPECIFICALLY BY PRESENTING TO ROORKS, A WACHOVIA BANK CHECK IN THE
NAME OF TABITHA L RASTELLI, IN THE AMOUNT OF \$334.74 IN VIOLATION OF
NJS 2C:21-1A(3)

P C IS FOUND BASED ON NARRATIVE AND ADM OF OATH

PF7 - PAGE BACK PF8 - PAGE FWD

COMPLAINT NO : W 2004 530628 COURT CODE: 1709 COURT DATE : 05 11 2004
DEFENDANT : NICOLE PFUND RELATED COMP: N
CHARGE SEQ : 002 CHARGE STATUS: DISP COMPLAINT STATUS: DSUS
OFFENSE: 2C:21-1A(3) ACSX: AUX OFFENS: DRUG CODE:

DEGREE: I FORGERY
PLEA : 9 PLEA DT: 00 00 0000 DISP DT: 05 07 2004 FINDING: S MODIFY TYPE:
COND DISCHARGE ST: AMENDED OFFENSE: LICENSE SURRENDERED:

AMENDED OFFENSE DESC:
SENTENCE TERMS CODE DURATION TERMS STATUS SERVED CREDIT
1. 1. 1. 1. 1.
2. 2. 2. 2. 2.
3. 3. 3. 3. 3.
-----AMOUNT-----AMOUNT-----CODE-----AMOUNT-----CODE-----AMOUNT-----CODE-----
FINE: 1. 2. 3.
COST: 4. 5. 6.
7. 8. 9.
10. 11. 12.

OFFENSE COMMENTS:
DISP COMMENTS: INTERFACED REMAND

COMPLAINT NO : W 2004 530628 COURT CODE: 1709 COURT DATE : 05 11 2004
DEFENDANT : NICOLE PFUND RELATED COMP: N
CHARGE SEQ : 001 CHARGE STATUS: TPAY COMPLAINT STATUS: DSUS
OFFENSE: 2C:20-4 ACSX: AUX OFFNS: DRUG CODE:

DEGREE: N THEFT BY DECEPTION - NEEDS TO BE GRADED
PLEA : 1 PLEA DT: 05 12 2004 DISP DT: 05 11 2004 FINDING: 1 MODIFY TYPE: C
COND DISCHARGE ST: AMENDED OFFENSE: 2C:20-4A LICENSE SURRENDERED:
AMENDED OFFENSE DESC: THEFT BY DECEPTION

SENTENCE	TERMS	CODE	DURATION	TERMS	STATUS	SERVED	CREDIT
1.	1.		1.	1.		1.	
2.	2.		2.	2.		2.	
3.	3.		3.	3.		3.	

AMOUNT	CODE	AMOUNT	CODE	AMOUNT	CODE	AMOUNT	CODE
FINE: \$300.00	1.	\$39.00 VC	2.	\$75.00 SN	3.	\$8.00 VF	
COST: \$58.00	4.	\$3.00 CF	5.	\$334.74 RT	6.	\$6.00 PO	
	7.	\$2.00 AF	8.		9.		
	10.		11.		12.		

OFFENSE COMMENTS:
DISP COMMENTS: GL CO VID CRT/5-19-04 J ASSESS RT/NO WARR-SENT ST PRIS

SUPERIOR COURT OF NEW JERSEY
COUNTY OF GLOUCESTER
LAW DIVISION - CRIMINAL

THE STATE OF NEW JERSEY :

JULY TERM, 2004

V. :

(A) INDICTMENT NO. 04-09-00660 I

NICOLE PFUND

Defendants

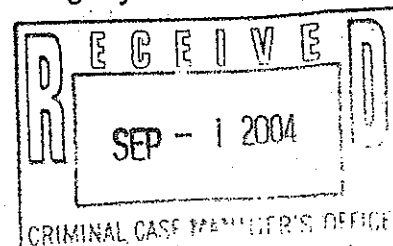
The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 11, 2003, in the Township of Deptford, in the County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Best Buy, check number 3640 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Best Buy in the amount of \$2,750.00, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000393-0802 (uttering)

SECOND COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 11, 2003, in the Township of Deptford, County of Gloucester, aforesaid and within the jurisdiction of this Court, did issue check number 3640 drawn on the account of Tabitha Rastelli at the Wachovia Bank in the amount of \$2,750.00 knowing that Wachovia Bank would not honor said check, contrary to the provisions of N.J.S. 2C:21-5 and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000393-0802 (bad check)

THIRD COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 22, 2003, in the Township of Deptford, in the County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Eckerd, check number 3683 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Eckerd in the amount of \$157.00, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000440-0802 (uttering)



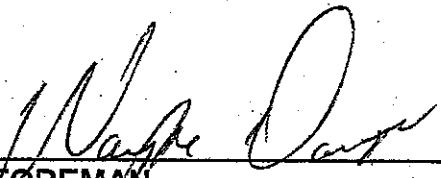
JT. HRG.
EXH. 3

FOURTH COUNT


The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 6, 2003, in the Township of Deptford, in the County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Marburn Curtain, check number 3701 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Marburn Curtain in the amount of \$159.00, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000441-0802 (uttering)

FIFTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 11, 2003, in the Township of Deptford, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Best Buy having a value in excess of \$2,750.00, by deception, that is by creating or reinforcing the false impression that the check uttered was not forged or fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000393-0802 (theft by decep)


FOREMAN

CASE: 04000758


COUNTY PROSECUTOR

NICOLE PFUND

DATE OF BIRTH 07/18/1975 S.B.I.# 981511B
DATE OF ARREST DATE IND/ACCUSATION FILED 09/01/2004
DATE OF THE ORIGINAL PLEA WAS
ORIGINAL PLEA 01/31/2005 NOT GUILTY XX GUILTY

XX JUDGMENT OF CONVICTION
CHANGE OF JUDGMENT
XX ORDER FOR COMMITMENT
INDICTMENT/ACCUSATION DISMISSED
JUDGMENT OF ACQUITTAL

ADJUDICATION BY XX GUILTY PLEA DATE 01/31/2005 NON-JURY TRIAL DATE
JURY TRIAL DATE DISM/ACQUITTED DATE

ORIGINAL CHARGES ON IND 04-09-00660-I

COUNT(S)	DESCRIPTION	DEGREE	STATUTE
001, 003	FORGERY-UTTER	4	2C:21-1A(3)
002	BAD CHECKS OVER \$200 -KNOWING	3	2C:21-5
004	FORGERY-UTTER	4	2C:21-1A(3)
005	THEFT BY DECEPTION	3	2C:20-4

FINAL CHARGES

COUNT(S)	DESCRIPTION	DEGREE	STATUTE
005	THEFT BY DECEPTION	3	2C:20-4

IT IS THEREFORE ON MARCH 21 2005 ORDERED AND ADJUDGED THAT THE DEFENDANT IS SENTENCED AS FOLLOWS:

COUNT 005, THEFT BY DECEPTION, 3RD DEGREE: THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 4 YEARS, C/C TO THE SENTENCE THE DEFENDANT IS CURRENTLY SERVING OUT OF CAMDEN AND/OR BURLINGTON COUNTY. CREDIT FOR TIME SERVED OF 16 DAYS (4/29/04 TO 5/5/04 & 5/9/04 TO 5/17/04). GAP TIME CREDITS OF 76 DAYS (5/6/04 TO 5/8/04 AND 1/7/05 TO 3/20/05). FINES & PENALTIES OF \$50 VCCB, \$75 SSNA & \$30 LEOPA. RESTITUTION AS FOLLOWS: \$87.23 TO SCHALICK MILLS, INC.; \$1,157.07 TO SELECTIVE INSURANCE CO.; \$376.20 TO BLOOMERS HOME & GARDEN; \$159 TO MARBURN CURTAIN; \$683.70 TO LAMP SHADE WORKS; \$1,122.88 TO WARREN'S HARDWARE; \$325.58 TO DRISSEL'S HARDWARE; & \$411.59 TO ECKERD DRUG STORE. DEFENDANT TO PROVIDE A DNA SAMPLE, AT THE DIRECTION OF THE COUNTY JAIL OR PRISON SYSTEM, AS APPLICABLE, & PAY FOR COSTS OF TESTING. ALL MONETARY OBLIGATIONS, INCLUDING RESTITUTION, ARE PAYABLE THROUGH THE PRISON SYSTEM OR PAROLE AUTHORITIES, AS APPLICABLE. ** DISMISSALS: COUNTS 1 THRU OF 04-09-00660-I; COUNTS 1 & 2 OF W-2004-000440-0802, DP; & COUNTS 1 & 2 OF W-2004-000441-0802, DP.

() IT IS ORDERED THAT THE SHERIFF DELIVER THE DEFEND. TO THE APPROPRIATE CORRECTIONAL AUTHORITY.

(X) DEFENDANT RECEIVES CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 16 DATES SEE ABOVE

(X) DEFENDANT RECEIVES GAP TIME CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 76 DATES SEE ABOVE

TOT. CUSTODIAL TERM 04Y 00M 00D INSTITUTION:

CARE COMMISS/CORR

TOT. PROBATION:00Y 00M

STATE OF NEW JERSEY V. NICOLE PFUND

SBI# 9815112 IND/ACC# 04-09-00660-1

TOTAL FINE \$.00 1) A MANDATORY DEDR PENALTY IS IMPOSED
 TOTAL RESTITUTION \$4,323.25 0 1ST DEGREE @ \$3000 0 4TH DEGREE @ \$750
 0 2ND DEGREE @ \$2000 DISORDERLY PERSONS @ \$500
 0 3RD DEGREE @ \$1000
 IF THE OFFENSE OCCURRED ON/AFTER 12/23/91 AN ASSESSMENT OF \$50 IS
 IMPOSED ON EACH CONVICTED COUNT () COURT ORDERS THAT COLLECTION OF DEDR PENALTY BE SUSPENDED UPON DEFENDANT'S
 UNLESS THE BOX BELOW INDICATES ENTRY INTO A RESIDENTIAL DRUG PROGRAM FOR THE TERM OF THE PROGRAM
 A HIGHER ASSESSMENT (\$30 IF OF- FENSE OCCURRED ON/AFTER 1/9/86 2) A FORENSIC LABORATORY FEE OF \$50 PER OFFENSE ORDERED _ OFFENSES @ \$50.
 UNLESS HIGHER ASSESSMENT NOTED) TOTAL LAB FEE \$.00
 (\$25 IF OFFENSE BEFORE 1/1/86) 3) DRUGS INVOLVED:
 4) A MANDATORY DRIVER'S LICENSE SUSPENSION OF _ MO. IS ORDERED
 THE SUSPENSION BEGINS _ END: _
 DRIVERS LICENSE # _

(X) ASSESSMENT IMPOSED ON
 COUNT(S) 1
 IS \$50.00 EACH.

TOTAL VCCB ASSESS \$50.00

SSNA \$75.00 LEOPA \$30.00

() INSTALLMENT PAYMENTS ARE
 OF \$ _ PER _
 BEGINNING _

DEFENDANT ADDRESS: _

EYE COLOR _ SEX _ DATE OF BIRTH _

() DEFENDANT HOLDS AN OUT-OF-STATE DRIVERS LICENSE FROM
 JURISDICTION _ DRIVERS LICENSE # _

() YOUR NON-RESIDENT DRIVING PRIVILEGE IS REVOKED FOR _ MONTHS

IF OFFENSE OCCURRED ON/AFTER 02/01/93 & SENTENCE IS PROBATION OR STATE CORRECTIONS, A TRANSACTION FEE UP TO \$1.00 IS
 ORDERED EACH OCCASION A PAYMENT OR INSTALLMENT IS MADE.
 IF OFFENSE OCCURRED ON/AFTER 08/02/93 A \$75 SAFE NEIGHBORHOOD SERVICES FUND ASSESSMENT IS ORDERED ON EACH CONVICTION
 IF OFFENSE OCCURRED ON/AFTER 01/05/94 & SENTENCE IS PROBATION A FEE OF UP TO \$25 PER MO. FOR THE PROB. TERM IS ORDERED
 AMOUNT PER MONTH n/a

NAME OF FORM PREPARER
 S. ARRISON

TELEPHONE#
 609 853 3534

NAME (ATTORNEY)
 NEIL A HARTMAN ESQ.

REPORTER:

REASONS

SEE ATTACHED "REASONS FOR SENTENCE"

WALTER L MARSHALL JR, J.S.C.

MARCH 21 2005

JUDGE (NAME)

JUDGE (SIGNATURE)

DATE

STATE v. NICOLE PFUND

SENTENCE DATE: 3/21/05

INDICTMENT NOS. A04-09-00660-I, A04-08-00600-I, A04-07-00567-I,
A04-06-00474-I, 04-12-00439-Z AND A04-08-00601-I

Pursuant to a plea negotiated with the State, the defendant pled guilty on January 31, 2005 to Count 5 of Indictment No. A04-09-00660-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-08-00600-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 7 of Indictment No. A04-07-00567-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-06-00474-I, attempted theft by deception, in violation of NJSA 2C:5-1, a 3rd degree offense, to Count 1 of Indictment No. 04-12-00439-Z, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, and to Count 1 of Indictment No. A04-08-00601-I, theft by deception, in violation of NJSA 2C:20-4, a 4th degree offense. The Court has reviewed the pre-sentence report and finds the following factors:

**REASONS FOR SENTENCE,
WHICH APPLY TO ALL SENTENCES**

AGGRAVATING FACTOR(S):

3. The risk that the defendant will commit another offense.

The defendant's record is voluminous. This factor applies and is given substantial weight.

6. The extent of the defendant's prior criminal record and the seriousness of the offenses of which she has been convicted.

This factor applies and is given substantial weight.

9. The need for deterring the defendant and others from violating the law.

This factor applies in every case of this type. This especially applies due to the fact that the defendant is a repetitive offender. This factor is given substantial weight.

MITIGATING FACTOR(S):

None.

This was a negotiated plea agreement between the prosecutor and the defendant. There is, therefore, a presumption of reasonableness. It appears appropriate under all the facts and circumstances and, in the interests of justice the Court will impose the recommended sentence.

The aggravating factors substantially outweigh the mitigating factor(s).

There is no presumption for or against incarceration for these third degree crime.

Q4000207
W530629
W530630

JOHN T. LENAHA, COUNTY PROSECUTOR
SALEM COUNTY PROSECUTOR'S OFFICE
FENWICK BUILDING
87 MARKET STREET
SALEM, NEW JERSEY 08079
Telephone (856) 935-7510, ext 8333
Attorney for Plaintiff/State of New Jersey

THE STATE OF NEW JERSEY
Plaintiff,

NOVEMBER SESSION
2004 TERM

vs.

INDICTMENT NO. 04-12-00439-I

NICOLE PFUND AKA
TABITHA L. RASTELLI

THEFT BY DECEPTION:
(Third Degree) (Two Counts)
UTTERING FORGED INSTRUMENT:
(Fourth Degree) (Two Counts)

Defendant

The Grand Jurors of the State of New Jersey, for the
County of Salem, upon their oaths and affirmations PRESENT
that on or about the 08th day of October, 2003, in the Boro
of Elmer, in the County aforesaid and within the
jurisdiction of this Court, NICOLE PFUND AKA TABITHA L.
RASTELLI purposely did obtain in excess of \$500.00, from,

Carl Harz Furniture by deception, that is, by creating or reinforcing the false impression that the check she wrote in order to pay for items purchased would be honored by Wachovia Bank, contrary to the provisions of N.J.S.A. 2C:20-4, and against the peace of this State, the government and dignity of the same.

SECOND COUNT

And the Grand Jurors aforesaid, upon their oaths aforesaid do further PRESENT that the said NICOLE PFUND AKA TABITHA L. RASTELLI at the time and place aforesaid and within the jurisdiction of this Court, with the purpose to defraud or injure, knowingly did utter as true to Carl Harz Furniture check number 3705 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Carl Harz Furniture in the amount of \$1162.72 bearing thereon a forged or falsely made signature or endorsement, knowing the same to be forged or falsely made, contrary to the provisions of N.J.S.A. 2C:21-1a(3), and against the peace of this State, the government and dignity of the same.

THIRD COUNT

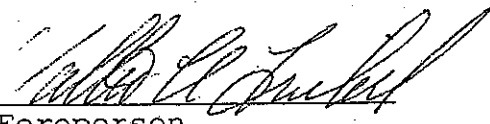
And the Grand Jurors aforesaid, upon their oaths aforesaid do further PRESENT that the said NICOLE PFUND AKA TABITHA L. RASTELLI on or about the 29th day of September, 2003 in the Boro of Elmer, County of Salem and within the jurisdiction of this Court, purposely did obtain in excess of \$500.00, from Schalick Mills Inc., by deception, that is, by creating or reinforcing the false impression that the check she wrote in order to pay for items purchased would be honored by Wachovia Bank, contrary to the provisions of N.J.S.A. 2C:20-4, and against the peace of this State, the government and dignity of the same.


FOURTH COUNT

And the Grand Jurors aforesaid, upon their oaths aforesaid do further PRESENT that the said NICOLE PFUND AKA TABITHA L. RASTELLI on or about the 29th day of September, 2003 in the Boro of Elmer, County of Salem and within the jurisdiction of this Court, with the purpose to defraud or injure, knowingly did utter as true to Schalick Mills Inc. check number 3677 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Schalick Mills Inc. in the

amount of \$1544.99 bearing thereon a forged or falsely made signature or endorsement, knowing the same to be forged or falsely made, contrary to the provisions of N.J.S.A. 2C:21-1a(3), and against the peace of this State, the government and dignity of the same.

A True Bill Returned


Foreperson


Salem County Prosecutor

Receipt of copy of the within indictment before entry, of plea is acknowledged, pursuant to Rule 3:5-1.

Defendant

STATE OF NEW JERSEY 05000533-001

NEW JERSEY SUPERIOR COURT PAGE 01 OF 01
GLOUCESTER COUNTY LAW DIVISION-CRIMINAL

NICOLE PFUND

DATE OF BIRTH 07/18/1975
DATE OF ARREST
DATE OF THE
ORIGINAL PLEA 01/31/2005S.B.I.#
DATE IND/ACCUSATION FILED 12/22/2004
ORIGINAL PLEA WAS
NOT GUILTY XX GUILTYXX JUDGMENT OF CONVICTION
CHANGE OF JUDGMENT
XX ORDER FOR COMMITMENT
INDICTMENT/ACCUSATION DISMISSED
JUDGMENT OF ACQUITTALADJUDICATION BY XX GUILTY PLEA DATE 01/31/2005 NON-JURY TRIAL DATE
JURY TRIAL DATE DISM/ACQUITTED DATE

ORIGINAL CHARGES ON ACC 04-12-00439-Z

COUNT(S)	DESCRIPTION	DEGREE	STATUTE
001, 003	THEFT BY DECEPTION		3 2C:20-4
002, 004	FORGERY-UTTER		4 2C:21-1A(3)

FINAL CHARGES

COUNT(S)	DESCRIPTION	DEGREE	STATUTE
001	THEFT BY DECEPTION		3 2C:20-4

IT IS THEREFORE ON MARCH 21 2005 ORDERED AND ADJUDGED THAT THE DEFENDANT IS SENTENCED AS FOLLOWS:

COUNT 001, THEFT BY DECEPTION, 3RD DEGREE: THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 4 YEARS, C/C TO A04-09-00660-I, A04-08-00600-I, A04-07-00567-I, A04-06-00474-I & TO THE SENTENCE SHE IS CURRENTLY SERVING OUT OF CAMDEN AND/OR BURLINGTON COUNTY. CREDIT FOR TIME SERVED OF 16 DAYS (4/29/04 TO 5/5/04 & 5/9/04 TO 5/17/04). GAP TIME CREDITS OF 76 DAYS (5/6/04 TO 5/8/04 & 1/7/05 TO 3/20/05). FINES & PENALTIES OF \$50 VCCB & \$75 SSNA. RESTITUTION AS INDICATED UNDER A04-09-00660-I. MONETARY PAYMENTS, INCLUDING RESTITUTION, AND DNA TESTING & COSTS APPLY & ARE C/C TO A04-09-00660-I. ** DISMISSALS: COUNTS 2, 3 & 4 OF 04-12-00439-Z.

() IT IS ORDERED THAT THE SHERIFF DELIVER THE DEFEND. TO THE APPROPRIATE CORRECTIONAL AUTHORITY.

(X) DEFENDANT RECEIVES CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 16 DATES SEE ABOVE

(X) DEFENDANT RECEIVES GAP TIME CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 76 DATES SEE ABOVE

TOT. CUSTODIAL TERM 04Y 00M 000 INSTITUTION:

CARE COMMISS/CORR

TOT. PROBATION:00Y 00M

Salem

STATE OF NEW JERSEY V. NICOLE PFUND

SBI# 981511B IND/ACC# 04-12-00439-Z

TOTAL FINE \$.00 1) A MANDATORY DEDR PENALTY IS IMPOSED
 TOTAL RESTITUTION \$.00 0 1ST DEGREE @ \$3000 0 4TH DEGREE @ \$750
 0 2ND DEGREE @ \$2000 DISORDERLY PERSONS @ \$500
 0 3RD DEGREE @ \$1000

IF THE OFFENSE OCCURRED ON/AFTER
 12/23/91 AN ASSESSMENT OF \$50 IS
 IMPOSED ON EACH CONVICTED COUNT
 UNLESS THE BOX BELOW INDICATES
 A HIGHER ASSESSMENT (\$30 IF OF-
 FENSE OCCURRED ON/AFTER 1/9/86
 UNLESS HIGHER ASSESSMENT NOTED)
 (\$25 IF OFFENSE BEFORE 1/1/86)

TOTAL DEDR PENALTY \$.00

() COURT ORDERS THAT COLLECTION OF DEDR PENALTY BE SUSPENDED UPON DEFENDANT'S
 ENTRY INTO A RESIDENTIAL DRUG PROGRAM FOR THE TERM OF THE PROGRAM

2) A FORENSIC LABORATORY FEE OF \$50 PER OFFENSE ORDERED OFFENSES @ \$50.
 TOTAL LAB FEE \$.00

3) DRUGS INVOLVED:

4) A MANDATORY DRIVER'S LICENSE SUSPENSION OF MO. IS ORDERED
 THE SUSPENSION BEGINS END:
 DRIVERS LICENSE #

(X) ASSESSMENT IMPOSED ON
 COUNT(S) 1
 IS \$50.00 EACH.

TOTAL VCCB ASSESS \$50.00

SSNA \$75.00

() INSTALLMENT PAYMENTS ARE
 OF \$ PER
 BEGINNING

DEFENDANT ADDRESS:

EYE COLOR SEX DATE OF BIRTH
 () DEFENDANT HOLDS AN OUT-OF-STATE DRIVERS LICENSE FROM
 JURISDICTION DRIVERS LICENSE #
 () YOUR NON-RESIDENT DRIVING PRIVILEGE IS REVOKED FOR MONTHS

IF OFFENSE OCCURRED ON/AFTER 02/01/93 & SENTENCE IS PROBATION OR STATE CORRECTIONS, A TRANSACTION FEE UP TO \$1.00 IS
 ORDERED EACH OCCASION A PAYMENT OR INSTALLMENT IS MADE.
 IF OFFENSE OCCURRED ON/AFTER 08/02/93 A \$75 SAFE NEIGHBORHOOD SERVICES FUND ASSESSMENT IS ORDERED ON EACH CONVICTION
 IF OFFENSE OCCURRED ON/AFTER 01/05/94 & SENTENCE IS PROBATION A FEE OF UP TO \$25 PER MO. FOR THE PROB. TERM IS ORDERED
 AMOUNT PER MONTH n/a

NAME OF FORM PREPARER
 S. ARRISON

TELEPHONE#
 609 853 3534

NAME (ATTORNEY)
 NEIL A HARTMAN ESQ.

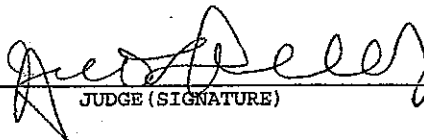
REPORTER:

REASONS

SEE ATTACHED 'REASONS FOR SENTENCE'

WALTER L MARSHALL JR, J.S.C.

JUDGE (NAME)



JUDGE (SIGNATURE)

MARCH 21 2005

DATE

STATE v. NICOLE PFUND

SENTENCE DATE: 3/21/05

INDICTMENT NOS. A04-09-00660-I, A04-08-00600-I, A04-07-00567-I,
A04-06-00474-I, 04-12-00439-Z AND A04-08-00601-I

Pursuant to a plea negotiated with the State, the defendant pled guilty on January 31, 2005 to Count 5 of Indictment No. A04-09-00660-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-08-00600-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 7 of Indictment No. A04-07-00567-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-06-00474-I, attempted theft by deception, in violation of NJSA 2C:5-1, a 3rd degree offense, to Count 1 of Indictment No. 04-12-00439-Z, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, and to Count 1 of Indictment No. A04-08-00601-I, theft by deception, in violation of NJSA 2C:20-4, a 4th degree offense. The Court has reviewed the pre-sentence report and finds the following factors:

**REASONS FOR SENTENCE,
WHICH APPLY TO ALL SENTENCES**

AGGRAVATING FACTOR(S):

3. The risk that the defendant will commit another offense.

The defendant's record is voluminous. This factor applies and is given substantial weight.

6. The extent of the defendant's prior criminal record and the seriousness of the offenses of which she has been convicted.

This factor applies and is given substantial weight.

9. The need for deterring the defendant and others from violating the law.

This factor applies in every case of this type. This especially applies due to the fact that the defendant is a repetitive offender. This factor is given substantial weight.

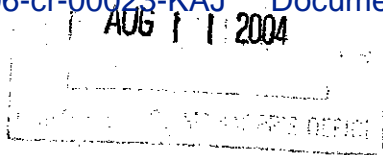
MITIGATING FACTOR(S):

None.

This was a negotiated plea agreement between the prosecutor and the defendant. There is, therefore, a presumption of reasonableness. It appears appropriate under all the facts and circumstances and, in the interests of justice the Court will impose the recommended sentence.

The aggravating factors substantially outweigh the mitigating factor(s).

There is no presumption for or against incarceration for these third degree crime.



SUPERIOR COURT OF NEW JERSEY
COUNTY OF GLOUCESTER
LAW DIVISION - CRIMINAL

THE STATE OF NEW JERSEY :

JULY TERM, 2004

V. :

(A)

INDICTMENT NO. 04-08-00600-1

NICOLE PFUND

Defendants

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 6, 2003, in the Township of Harrison, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Warren's Hardware having a value in excess of \$500.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 3rd degree. D.P. (theft by decep)

SECOND COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 6, 2003, in the Township of Harrison, County of Gloucester, aforesaid and within the jurisdiction of this Court, did issue check number 3700 drawn on the account of Tabitha Rastelli at the Wachovia Bank in the amount of \$1,122.88 knowing that Wachovia Bank would not honor said check, contrary to the provisions of N.J.S. 2C:21-5 and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000084-0808 (bad check)

THIRD COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 6, 2003, in the Township of Harrison, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Warren's Hardware check number 3700 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Warren's Hardware in the amount of \$1,122.88, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000084-0808 (uttering)

FOURTH COUNT

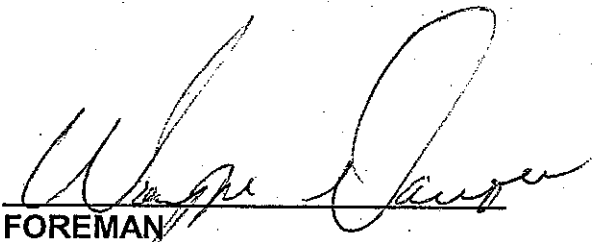
The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 8, 2003, in the Township of Harrison, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Eckerd Store having a value in excess of \$200.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 4th degree. D.P. (theft by decep)

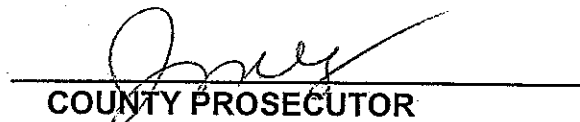
FIFTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 8, 2003, in the Township of Harrison, County of Gloucester, aforesaid and within the jurisdiction of this Court, did issue check number 3703 drawn on the account of Tabitha Rastelli at the Wachovia Bank in the amount of \$269.12 knowing that Wachovia Bank would not honor said check, contrary to the provisions of N.J.S. 2C:21-5 and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000084-0808 (bad check)

SIXTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 8, 2003, in the Township of Harrison, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Eckerd Store check number 3703 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Eckerd Store in the amount of \$269.12, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000084-0808 (uttering)


FOREMAN


COUNTY PROSECUTOR

CASE: 04000860

NICOLE PFUND

DATE OF BIRTH 07/18/1975 S.B.I.# 981511B
DATE OF ARREST DATE IND/ACCUSATION FILED 08/11/2004
DATE OF THE ORIGINAL PLEA WAS
ORIGINAL PLEA 01/31/2005 NOT GUILTY XX GUILTY

XX JUDGMENT OF CONVICTION
CHANGE OF JUDGMENT
XX ORDER FOR COMMITMENT
INDICTMENT/ACCUSATION DISMISSED
JUDGMENT OF ACQUITTAL

ADJUDICATION BY XX GUILTY PLEA DATE 01/31/2005 NON-JURY TRIAL DATE
JURY TRIAL DATE DISM/ACQUITTED DATE

ORIGINAL CHARGES ON IND 04-08-00600-I

COUNT(S)	DESCRIPTION	DEGREE	STATUTE
001, 004	THEFT BY DECEPTION		4 2C:20-4
002, 005	BAD CHECKS OVER \$200 -KNOWING		4 2C:21-5
003, 006	FORGERY-UTTER		4 2C:21-1A(3)

FINAL CHARGES

COUNT(S)	DESCRIPTION	DEGREE	STATUTE
001	THEFT BY DECEPTION		3 2C:20-4

IT IS THEREFORE ON MARCH 21 2005 ORDERED AND ADJUDGED THAT THE DEFENDANT IS SENTENCED AS FOLLOWS:

COUNT 001, THEFT BY DECEPTION, 3RD DEGREE: THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 4 YEARS, C/C TO A04-09-00660-I & TO THE SENTENCE SHE IS CURRENTLY SERVING OUT OF CAMDEN AND/OR BURLINGTON COUNTIES. CREDIT FOR TIME SERVED OF 16 DAYS (4/29/04 TO 5/5/04 & 5/9/04 TO 5/17/04). GAP TIME CREDITS OF 76 DAYS (5/6/04 TO 5/8/04 & 1/7/05 TO 3/20/05). FINES & PENALTIES OF \$50 VCCB & \$75 SSNA. RESTITUTION AS INDICATED IN A04-09-00660-I. MONETARY PAYMENTS, INCLUDING RESTITUTION, AND DNA TESTING & COSTS ARE C/C TO A04-09-00660-I. ** DISMISSALS: COUNTS 2 THRU 6 OF 04-08-00600-I.

() IT IS ORDERED THAT THE SHERIFF DELIVER THE DEFEND. TO THE APPROPRIATE CORRECTIONAL AUTHORITY.

(X) DEFENDANT RECEIVES CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 16 DATES SEE ABOVE

(X) DEFENDANT RECEIVES GAP TIME CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 76 DATES SEE ABOVE

TOT. CUSTODIAL TERM 04Y 00M 00D INSTITUTION:

CARE COMMISS/CORR

TOT. PROBATION:00Y 00M

TOTAL FINE \$.00 1) A MANDATORY DEDR PENALTY IS IMPOSED
TOTAL RESTITUTION \$.00 0 1ST DEGREE @ \$3000 0 4TH DEGREE @ \$750
0 2ND DEGREE @ \$2000 DISORDERLY PERSONS @ \$500
0 3RD DEGREE @ \$1000
IF THE OFFENSE OCCURRED ON/AFTER 12/23/91 AN ASSESSMENT OF \$50 IS IMPOSED ON EACH CONVICTED COUNT UNLESS THE BOX BELOW INDICATES A HIGHER ASSESSMENT (\$30 IF OFFENSE OCCURRED ON/AFTER 1/9/86 UNLESS HIGHER ASSESSMENT NOTED). (\$25 IF OFFENSE BEFORE 1/1/86)
(X) ASSESSMENT IMPOSED ON COUNT(S) 1 IS \$50.00 EACH.
TOTAL VCCB ASSESS \$50.00
SSNA \$75.00
() INSTALLMENT PAYMENTS ARE OF \$ PER BEGINNING
2) A FORENSIC LABORATORY FEE OF \$50 PER OFFENSE ORDERED OFFENSES @ \$50.
TOTAL LAB FEE \$.00
3) DRUGS INVOLVED:
4) A MANDATORY DRIVER'S LICENSE SUSPENSION OF MO. IS ORDERED THE SUSPENSION BEGINS END: DRIVERS LICENSE #
DEFENDANT ADDRESS:
EYE COLOR SEX DATE OF BIRTH
() DEFENDANT HOLDS AN OUT-OF-STATE DRIVERS LICENSE FROM JURISDICTION DRIVERS LICENSE #
() YOUR NON-RESIDENT DRIVING PRIVILEGE IS REVOKED FOR MONTHS

IF OFFENSE OCCURRED ON/AFTER 02/01/93 & SENTENCE IS PROBATION OR STATE CORRECTIONS, A TRANSACTION FEE UP TO \$1.00 IS ORDERED EACH OCCASION A PAYMENT OR INSTALLMENT IS MADE.
IF OFFENSE OCCURRED ON/AFTER 08/02/93 A \$75 SAFE NEIGHBORHOOD SERVICES FUND ASSESSMENT IS ORDERED ON EACH CONVICTION
IF OFFENSE OCCURRED ON/AFTER 01/05/94 & SENTENCE IS PROBATION A FEE OF UP TO \$25 PER MO. FOR THE PROB. TERM IS ORDERED AMOUNT PER MONTH n/a

NAME OF FORM PREPARER TELEPHONE# NAME (ATTORNEY)
S. ARRISON 609 853 3534 NEIL A HARTMAN ESQ.

REPORTER: REASONS

SEE ATTACHED 'REASONS FOR SENTENCE'

WALTER L MARSHALL JR, J.S.C.

MARCH 21 2005

JUDGE (NAME)

JUDGE (SIGNATURE)

DATE

STATE v. NICOLE PFUND

SENTENCE DATE: 3/21/05

INDICTMENT NOS. A04-09-00660-I, A04-08-00600-I, A04-07-00567-I,
A04-06-00474-I, 04-12-00439-Z AND A04-08-00601-I

Pursuant to a plea negotiated with the State, the defendant pled guilty on January 31, 2005 to Count 5 of Indictment No. A04-09-00660-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-08-00600-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 7 of Indictment No. A04-07-00567-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-06-00474-I, attempted theft by deception, in violation of NJSA 2C:5-1, a 3rd degree offense, to Count 1 of Indictment No. 04-12-00439-Z, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, and to Count 1 of Indictment No. A04-08-00601-I, theft by deception, in violation of NJSA 2C:20-4, a 4th degree offense. The Court has reviewed the pre-sentence report and finds the following factors:

**REASONS FOR SENTENCE,
WHICH APPLY TO ALL SENTENCES**

AGGRAVATING FACTOR(S):

3. The risk that the defendant will commit another offense.

The defendant's record is voluminous. This factor applies and is given substantial weight.

6. The extent of the defendant's prior criminal record and the seriousness of the offenses of which she has been convicted.

This factor applies and is given substantial weight.

9. The need for deterring the defendant and others from violating the law.

This factor applies in every case of this type. This especially applies due to the fact that the defendant is a repetitive offender. This factor is given substantial weight.

MITIGATING FACTOR(S):

None.

This was a negotiated plea agreement between the prosecutor and the defendant. There is, therefore, a presumption of reasonableness. It appears appropriate under all the facts and circumstances and, in the interests of justice the Court will impose the recommended sentence.

The aggravating factors substantially outweigh the mitigating factor(s).

There is no presumption for or against incarceration for these third degree crime.

